



[4910-13]

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Notice of Policy Clarification for Acceptance of Documents with Digital Signatures by the Federal Aviation Administration Aircraft Registry

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Notice of FAA Policy Clarification

**SUMMARY:** Notice is hereby given of the FAA's clarification of its policy regarding the acceptance of documents submitted to the FAA Aircraft Registry with digital signatures in support of aircraft registration under 14 C.F.R. §47.13 and conveyances or security documents submitted to the FAA Aircraft Registry regarding claims and interests under 14 C.F.R. §49.13.

**DATES:** *Effective Date:* The policy described herein is effective May 1, 2016.

#### FOR FURTHER INFORMATION CONTACT:

Ladeana G. Peden at 405-954-3296, Office of Aeronautical Center Counsel (AMC-7), Federal Aviation Administration, 6500 S. MacArthur Blvd., Oklahoma City, Oklahoma 73169.

#### Background

The FAA reviewed policies and practices regarding the acceptance of digital signatures on documents filed with the FAA Aircraft Registry. Based on that review we find that signatures, other than hand scribed signatures, are acceptable under State law. (Historically, the FAA has accepted instruments, for recording, based on their validity under state law. See generally 49 U.S.C. §44108(c)) Specific court cases have held that it is immaterial with what kind of instrument a signature is made. See *Maricopa County v. Osborn*, 60 Ariz 290 (1943); and *State of North Carolina v. David Leroy Watts*, 222 S.E. 2d 389 (1976). Selected State statutes also provide that digitally signed communications are signed writings. See Ca. Gov't Code 16.5

(West 1995); also the Illinois Financial Institutions Digital Signature Act, 205 Ill. Comp. Stat. 705/10 (West 1998). For a general discussion of Signatures, see *Corpus Juris Secundum*, 80 C.J.S. *Signatures*, § 7 (2000).

On October 21, 1998, Public Law 105-277, Government Paperwork Elimination Act, directed the Office of Management and Budget (OMB) to develop procedures for the use and acceptance of electronic signatures by Federal agencies. The Act requires that, when practicable, Federal agencies should use electronic forms, electronic filing, and digital signatures to conduct official business with the public.

The Electronic Signatures in Global and National Commerce Act, Public Law (P.L.) 106-229, enacted June 30, 2000, provides that the use of electronic records and electronic signatures is an acceptable practice when conducting interstate and foreign commerce.

On October 31, 2008, the U.S. Department of Transportation, Federal Aviation Administration, published FAA Order 1370.104, Digital Signature Policy. This Order established the FAA policy for the use of digital signatures. The Order states “Electronic signatures describe digital markings used to bind a party or, to authenticate a record. It is considered the digital equivalent of the traditional handwritten signature used to sign a contract or document.”

The policy defines a digital signature as:

“... a type of electronic signature that is legally acceptable and offers both signer and transaction authentication. The digital signature is the most secure and full-featured type of electronic signature. Digital signatures are federally acceptable types of electronic signatures for business transactions as specified in the National Institutes of Standards and Technology (NIST) guidelines.”

14 C.F.R. §47.13(a) provides “ Each person signing an Aircraft Registration Application, AC Form 8050-1, or a document submitted as supporting evidence under this part, must sign in ink *or by other means acceptable to the FAA.*” (emphasis added) 14 C.F.R. §49.13(a) provides “Each signature on a conveyance must be in ink.”

Black’s Law Dictionary, 7<sup>th</sup> Edition (“Black’s”), defines a signature as “[a] person’s name or mark written by that person or at the person’s direction. 2. ... Any name, mark or writing used with the intention of authenticating a document.” Black’s defines a digital signature as “[a] secure, digital code attached to an electronically transmitted message that uniquely identifies and authenticates the sender.”

Based on the foregoing, the FAA Civil Aviation Registry, Aircraft Registration Branch determined that ink signatures and legible digital signatures, comply with the signature requirements of 14 C.F.R. Parts 47 and 49.

#### **POLICY CLARIFICATION:**

Effective May 1, 2016 the FAA Civil Aircraft Registry , Aircraft Registration Branch (the “Aircraft Registry”) will accept printed duplicates of electronic documents that display legible, digital signatures that are filed in compliance with Parts 47 and 49 of the FAA Regulations (14 C.F.R. Parts 47 & 49). These documents include but are not limited to the following:

- (i) Aircraft Registration Application, AC Form 8050-1;
- (ii) Aircraft Bill of Sale, AC Form 8050-2, or equivalent transfer documents;
- (iii) Security documents;
- (iv) Conditional Sales Contracts;
- (v) Leases; and,

(vi) Any supporting authorization documents such as Powers of Attorney, Trust Agreements, and supplements of related documents, and Limited Liability Company Statements, et-cetera.

In order to accommodate applicants for aircraft registration, the Aircraft Registry will make available a downloadable Aircraft Registration Application, AC Form 8050-1. Applicants may sign the form using a legible digital signature. A printed duplicate of the digitally signed application may be submitted in support of aircraft registration and a second duplicate copy may be retained in the aircraft as temporary 47.31 authority to operate the aircraft within the United States, in lieu of the pink copy of Form 8050-1 permitted under 14 C.F.R. §47.31(c), pending registration of the aircraft.

Upon receipt of a document with a digital signature by the FAA Civil Aircraft Registry, Aircraft Registration Branch (the Aircraft Registry), FAA Legal Instrument Examiners will review each document and determine whether the document has a legible and acceptable digital signature.

A legible and acceptable digital signature will have, at minimum, the following components:

- 1) Shows the name of the signer and is applied in a manner to execute or validate the document;
- 2) Includes the typed or printed name of the signer below or adjacent to the signature when the signature uses a digitized or scanned version of the signer's hand scribed signature or the name is in a cursive font;
- 3) Shows the signer's corporate, managerial, or partnership title as part of or adjacent to the digital signature when the signer is signing on behalf of an organization or legal entity;

- 4) Shows evidence of authentication of the signer's identity such as the text "digitally signed by" along with the software provider's seal /watermark, date and time of execution; or, have an authentication code or key identifying the software provider; and
- 5) Has a font, size and color density that is clearly legible and reproducible when reviewed, copied and scanned into a black on white format.

Documents digitally signed in the forgoing manner will be considered facially valid and will be acceptable for review and consideration by the FAA Civil Aircraft Registry, Aircraft Registration Branch (the Aircraft Registry) for recordation and registration purposes.

Issued in Washington, DC on April 13, 2016.

John S. Duncan

Director, Flight Standards Service

[FR Doc. 2016-09069 Filed: 4/19/2016 8:45 am; Publication Date: 4/20/2016]